

Internal Revenue Service

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Date:

May 15, 2007

Legend

US Co. =

State A =

US Exchange =

US Co. Group =

Month A =

Group =

CFC =

Country A =

US Sub =

CFC 1 =

Country B =

Country C =

CFC 2 =

Country D =

FDE 1 =

FDE 2 =

Country E =

FDE 3 =

FDE 4 =

Country F =

Date A =

Date B =

Foreign =

Country A Public Corporation =

Country A Private Corporation =

Date C =

Date D =

A =

B =

Date E =

\$A =

\$B =

Date F =

Date G =

\$C =

Date H =

Dear :

We respond to your authorized representative's January 31, 2007 letter requesting rulings regarding the tax treatment of a proposed transaction. The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. The pertinent facts, as described in your letter, are set forth below.

Facts

US Co. is a publicly traded State A corporation and the common parent of a multinational controlled group of corporations ("US Co. Group"). US Co.'s common stock is traded on the US Exchange. The US Co. Group files a consolidated return for U.S. federal income tax purposes based on a 52-53 week fiscal year ending on the last Saturday in Month A. The US Co. Group provides a broad line of products around the world.

US Co. owns 100% of the outstanding stock of CFC, a Country A controlled foreign corporation, and US Sub, a U.S. corporation. US Sub owns 100% of the outstanding stock of CFC 1, a Country B controlled foreign corporation resident in Country C under Country C tax principles. CFC 1 owns 100% of the outstanding stock of CFC 2, a Country B controlled foreign corporation resident in Country C under Country C tax principles.

CFC 2 owns a number of foreign subsidiaries that are disregarded for U.S. federal tax purposes. Specifically, CFC 2 owns (through a wholly owned, disregarded Country D subsidiary) 100% of the outstanding stock of FDE 1, a Country D corporation and disregarded entity for U.S. federal tax purposes. CFC 2 also owns (through direct and indirect wholly owned disregarded entities) 100% of the outstanding stock of FDE 2, a Country E company and disregarded entity for U.S. federal tax purposes. FDE 2 owns 100% of FDE 3, a Country E company and disregarded entity for U.S. federal tax purposes, and 100% of FDE 4, a Country F corporation and disregarded entity for U.S. federal tax purposes.

US Co., together with FDE 3, manufactures and sells US Co. Group products and related services. As part of US Co.'s international operations, US Co. and FDE 3 sell products to buy-sell distributor subsidiaries within the worldwide group. CFC is one of the buy-sell distributors, whose primary function is to sell and distribute US Co. Group products to customers throughout Country A.

CFC was formed on Date A. CFC has authorized shares of voting common stock with no par value ("CFC Common Stock") and shares of voting convertible preferred stock with no par value ("CFC Preferred Stock"). Prior to Date B, CFC had shares of common stock issued and outstanding, all of which were held by US Co. CFC also had shares of preferred stock issued and outstanding, all of which were held by various unrelated minority investors ("Minority Investors"). CFC was formed with the intent to eventually list its shares on the Foreign stock exchange in order to provide third party shareholders with a material incentive to partner with US Co. Accordingly, CFC was formed as a Country A Public Corporation, which at that time was the only Country A legal entity that could be publicly listed. For various business reasons, the plans to publicly list CFC were eventually cancelled.

Pursuant to an Investment Agreement among the Minority Investors, CFC and US Co., US Co. purchased all of the shares of CFC Preferred Stock held by Minority Investors over a period of time from Date B through Date C. By Date D, US Co. had acquired all of the issued and outstanding CFC Preferred Stock and became the sole shareholder of CFC.

Given that CFC no longer has any Minority Investors and its sole shareholder, US Co., no longer has any need or desire to take the company public, CFC would prefer to operate in a legal entity form that maintains limited liability for the company and its interest holders without having to maintain the same corporate governance and legal requirements as a Country A Public Corporation. Therefore, CFC intends to convert to a Country A Private Corporation pursuant to Country A corporate law. Because Country A law prohibits a Country A Private Corporation from having more than one class of stock outstanding, in order to facilitate the conversion, CFC intends to recapitalize the CFC Preferred Stock into a number of shares of common stock equal to the value of the preferred stock.

In addition to changing CFC's corporate form to maintain limited liability and reduce administrative costs and burdens, the US Co. Group wants to better align the legal structure of CFC with its current operating structure by shifting the legal ownership of CFC to within the CFC 2 legal entity structure. US Co. has recently undertaken operational restructuring initiatives designed to improve the US Co. Group's future net income by streamlining manufacturing supply chain and distribution functions. To further increase efficiencies and synergies, US Co. intends to combine the buy-sell entities within a single legal structure.

Proposed Transaction

The following steps will be undertaken, all as part of a single, overall plan:

1. CFC 1 and CFC will each adopt a plan of reorganization for U.S. federal income tax purposes that includes each of the steps described below. In addition, US Co., US Sub, CFC 1 and CFC 2 will each adopt a plan of contribution that includes steps 3 through 7 described below.
2. CFC will convert all of its issued and outstanding CFC Preferred Stock into shares of CFC Common Stock having a fair market value approximately equal to the fair market value of the CFC Preferred Stock (the "Recapitalization").
3. CFC 1 will acquire all of the issued and outstanding CFC stock from US Co. in exchange for one share of CFC 1 voting common stock ("CFC 1 Nominal Stock").
4. Immediately after step 3 above, CFC will legally convert to a Country A Private Corporation pursuant to Country A corporate law ("CFC Conversion").
5. A check-the-box election will be properly filed on Form 8832 to classify CFC as a disregarded entity for U.S. federal income tax purposes as of the later of (1) the effective date of the conversion described in step 4 above, or (2) two days after the acquisition of CFC stock described in step 3 above (the foregoing steps are hereinafter referred to as the "CFC Reorganization").
6. US Co. will contribute the CFC 1 share received in Step 3 to US Sub in exchange for no consideration immediately following step 5 ("US Sub Contribution").
7. Given that US Sub will actually hold two blocks of CFC 1 stock after the US Sub Contribution (deemed and actual), rather than the three blocks of stock it would hold if the CFC 1 deemed stock represented actual shares contributed by US Co. to US Sub in the US Sub Contribution, CFC 1 is treated as recapitalizing its outstanding stock immediately after the US Sub Contribution. Accordingly, US Co. is treated as transferring all of its three blocks of CFC 1 stock (deemed and actual) to CFC 1 and CFC 1 is deemed to issue to US Sub an amount of CFC 1 stock equal to the amount of CFC 1 stock actually held by US Sub immediately after the US Sub Contribution ("Deemed Recapitalization").
8. CFC 1 will contribute all of the shares of CFC (a disregarded entity for U.S. federal tax purposes) to CFC 2 in exchange for one share of CFC 2 stock ("CFC Contribution").
9. CFC 2 will sell the shares of CFC (a disregarded entity for U.S. federal tax purposes) to FDE 2 (also a disregarded entity for U.S. federal tax purposes) in

exchange for an amount of cash or a note approximately equal to the fair market value of the CFC stock ("CFC Sale").

Representations

CFC Reorganization

The following representations are made with respect to the CFC Reorganization:

- a. For the 12-month period ending with the CFC Reorganization, US Co. will have been the sole shareholder of US Sub and CFC, and US Sub will have been the sole shareholder of CFC 1, and the only shares of US Sub, CFC, or CFC 1 that will have been sold, issued, redeemed or disposed of within the 12 months prior to CFC Reorganization will be pursuant to the conversion of A shares of US Sub common stock wholly owned by US Co. into B shares of Class A common stock wholly owned by US Co. pursuant to a recapitalization of US Sub on Date E, a transaction that did not affect the sole shareholder of US Sub and CFC, and US Sub being the sole shareholder of CFC 1 throughout the 12-month period. US Co. has no plan or intention to cease being the sole shareholder of CFC except as described in connection with the CFC Reorganization. Following the CFC Reorganization, US Sub and CFC 1 will remain in existence, US Co. will be the sole shareholder of US Sub and US Sub will be the sole shareholder of CFC 1, and there will be no plan or intention for US Co. or US Sub to dispose of any US Sub stock or CFC 1 stock, or for US Sub or CFC 1 to issue any additional stock, nor any plan or intention by US Sub or CFC 1 or any related person (as defined in Treas. Reg. §1.368-1(e)(3)) to (i) redeem or otherwise acquire any US Sub or CFC 1 stock, (ii) have any US Sub or CFC 1 stock that is redeemable by its terms or other agreement, or (iii) have any options, warrants, convertible securities, or any other type of right that is convertible into stock or securities of US Sub, CFC 1 or CFC that, if exercised or converted, would affect US Co. being the sole shareholder of US Sub or US Sub being the sole shareholder of CFC 1.
- b. At the time CFC 1 acquires all of the CFC stock, as well as at the effective date of CFC's election to be treated as a disregarded entity, CFC will hold at least 90% of the fair market value of the net assets and at least 70% of the fair market value of the gross assets held by CFC immediately prior to the CFC Reorganization. Amounts used by CFC to pay its expenses, cash or other property paid by CFC to US Co., if any, and all redemptions and distributions (except for regular, normal dividends) made by CFC immediately preceding the proposed transaction will be included as assets of CFC held immediately prior to the CFC Reorganization.

- c. After the CFC Reorganization, US Co. will be in control of CFC 1 within the meaning of Section 368(a)(2)(H).
- d. Except as described in the proposed transaction, CFC 1 has no plan or intention to reacquire its stock issued in the CFC Reorganization.
- e. CFC 1 will have no plan or intention to sell or otherwise dispose of any equity in, or assets of, CFC at the time of the CFC Reorganization, except for (i) dispositions made in the ordinary course of business, (ii) dispositions to CFC 2 as described in Section 368(a)(2)(C), the regulations thereunder and Rev. Rul. 2002-85, 2002-2 C.B. 986 and (iii) dispositions made to disregarded entities owned by CFC 1. Any disposition to CFC 2 described in Section 368(a)(2)(C), the regulations thereunder and Rev. Rul. 2002-85, 2002-2 C.B. 986, will not be followed by a subsequent disposition except for (i) dispositions made in the ordinary course of business, (ii) dispositions described in Section 368(a)(2)(C), the regulations thereunder, and Rev. Rul. 2002-85, 2002-2 C.B. 986, and (iii) dispositions made to entities owned by that transferor and disregarded under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T (or to entities indirectly, wholly owned by that transferor through wholly owned entities all of which are treated as disregarded entities under Section 7701 and Treas. Reg. §§301.7701-1, et seq.). There is no plan or intention for CFC to cease being an entity disregarded under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T, and except as described in the proposed transaction, there will be no plan or intention for CFC 1 or CFC 2 to transfer any of its CFC equity or for CFC to issue any equity.
- f. No liabilities of CFC will be assumed in the CFC Reorganization by any person other than CFC 1 (or a wholly owned subsidiary, or entities wholly owned by them and disregarded under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T, pursuant to Section 368(a)(2)(C), the regulations thereunder, and Rev. Rul. 2002-85, 2002-2 C.B. 986). Any assumed liabilities plus the liabilities to which the CFC assets are subject were incurred by CFC in the ordinary course of its business and are associated with the assets transferred.
- g. Following the CFC Reorganization, CFC 1, CFC 2 or a wholly owned subsidiary of CFC 2 (or entities directly or indirectly wholly owned by them and disregarded under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T, including CFC) will continue the historic business of CFC or use a significant portion of CFC's historic business assets in a business.
- h. At the time of the CFC Reorganization, CFC 1 will not have outstanding any warrants, options, convertible securities, or any other type of right pursuant

to which any person could acquire stock in CFC 1 that, if exercised or converted, would affect US Co.'s acquisition or retention of control of CFC 1 as defined in Section 368(a)(2)(H).

- i. CFC 1, CFC, and US Co. will pay their respective expenses, if any, incurred in connection with the CFC Reorganization.
- j. There is no inter-corporate indebtedness existing between CFC 1 and CFC that was issued, acquired, or will be settled at a discount.
- k. Neither CFC 1 nor CFC is an investment company as defined in Section 368(a)(2)(F)(iii) and (iv).
- l. As of the effective date of the CFC Reorganization, the aggregate fair market value of the CFC assets will exceed the sum of its liabilities, and the liabilities of CFC will have been incurred in the ordinary course of business and associated with the CFC assets.
- m. As of the effective date of the CFC Reorganization, the total adjusted basis of CFC's assets will exceed the sum of CFC's liabilities, plus the amount of liabilities, if any, to which its assets are subject.
- n. CFC is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of Section 368(a)(3)(A).
- o. The sole consideration to be received by US Co. in the CFC Reorganization will be the CFC 1 Nominal Stock, consisting solely of CFC 1 voting common stock, the CFC 1 Nominal Stock will not be placed in escrow and no consideration will be issued later under a contingent arrangement, the CFC 1 Nominal Stock will be immediately contributed by US Co. to the capital of US Sub for no consideration, and the fair market value of the CFC 1 stock owned by US Sub and the fair market value of the US Sub stock owned by US Co. will each increase as a result of the CFC Reorganization by the fair market value of the CFC stock surrendered by US Co. in the CFC Reorganization.
- p. The CFC Reorganization will occur pursuant to a plan of reorganization adopted in step 1 of the proposed transaction.
- q. CFC will not have changed its entity classification for U.S. federal income tax purposes within the 60-month period preceding the effective date of the CFC Reorganization for purposes of Treas. Reg. §301.7701-3(c)(1)(iv).
- r. Immediately prior to the CFC Reorganization, neither CFC 1 nor CFC will be

a passive foreign investment company as defined in Section 1297(a).

- s. The CFC Reorganization will be undertaken to achieve the significant non-tax business purposes described herein.
- t. The parties to the CFC Reorganization will comply with any and all reporting requirements under Sections 367, 368, 6038, 6038B and 6046 with respect to the CFC Reorganization.
- u. With respect to the exchange by US Co. of the shares of CFC for shares of CFC 1 stock (deemed and actual) US Co. shall execute a gain recognition agreement in accordance with Treas. Reg. section 1.367(a)-8(a).
- v. The notice requirements of Treas. Reg. 1.367(b)-1(c) will be satisfied with respect to the exchange by US Co. of the shares of CFC for shares of CFC 1 stock (deemed and actual).
- w. CFC and CFC 1 will be controlled foreign corporations, within the meaning of section 957(a), immediately before the CFC Reorganization.
- x. US Co. will be a section 1248 shareholder, within the meaning of section 1.367(b)-2(b), with respect to each of CFC and CFC 1 immediately before the CFC Reorganization, and US Co. will be a section 1248 shareholder with respect to CFC 1 immediately after the CFC Reorganization.

US Sub Contribution

The following representations are made with respect to the US Sub Contribution.

- a. The US Sub Contribution will not be the result of the solicitation by a promoter, broker, or investment house.
- b. US Co. will not retain any rights or interests in the CFC 1 stock (deemed and actual) transferred to US Sub other than through its ownership of US Sub.
- c. For the 12-month period ending with the US Sub Contribution, US Co. will have been the sole shareholder of US Sub, and the only US Sub shares that will have been sold, issued, redeemed or disposed of within the 12 months will be the conversion of A shares of US Sub common stock wholly owned by US Co. into B shares of Class A common stock wholly owned by US Co. pursuant to a recapitalization of US Sub on Date E, a transaction that did not affect US Co. being the sole shareholder of US Sub throughout the 12-month period and US Co. will remain the sole shareholder of US Sub following the US Sub Contribution.

- d. As of the effective date of the US Sub Contribution, the adjusted basis and aggregate fair market value of the CFC 1 stock (deemed and actual) transferred to US Sub will exceed the sum of the liabilities to be assumed plus any liabilities to which the CFC 1 stock is subject, if any.
- e. No liabilities will be transferred to or assumed by US Sub, nor will any property transferred to US Sub be subject to any liabilities. For this purpose, debt within CFC 1 will not be considered transferred to or assumed by US Sub.
- f. No indebtedness will be created in favor of US Co. as a result of the US Sub Contribution.
- g. The US Sub Contribution will occur pursuant to a plan of contribution adopted in step 1 of the proposed transaction.
- h. All exchanges will occur on approximately the same date.
- i. There is no plan or intention on the part of US Sub to redeem or otherwise reacquire any of its outstanding stock.
- j. Taking into account any issuance of additional shares of US Sub stock, and any sale, exchange, transfer by gift, or other disposition of any existing shares of US Sub stock, US Co. will be in "control" of US Sub within the meaning of Section 368(c).
- k. US Co. will not receive stock, securities or other property in the US Sub Contribution, but the fair market value of the US Sub stock owned by US Co. immediately prior to the US Sub Contribution will increase as a result of the US Sub Contribution by the fair market value of the CFC 1 stock (deemed and actual) transferred to US Sub in the US Sub Contribution.
- l. US Sub will remain in existence and use its assets held at the time of the US Sub Contribution in a trade or business.
- m. US Sub will have no plan or intention to sell, exchange or otherwise dispose of any stock of CFC 1 or for CFC 1 to issue any equity or dispose of any of its assets other than (i) dispositions made in the ordinary course of business, and (ii) dispositions made to entities wholly owned by US Sub and disregarded under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T (or indirectly, wholly owned by US Sub through wholly owned entities all of which are treated as disregarded entities under Section 7701 and Treas. Reg. §§301.7701-1, et seq.).

- n. US Co. and US Sub will each pay its own expenses, if any, incurred in connection with the US Sub Contribution.
- o. US Sub will not be an investment company within the meaning of Section 351(e)(1) and Treas. Reg. §1.351-1(c)(1)(ii).
- p. US Co. is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of Section 368(a)(3)(A)) and the stock or securities received in the exchange will not be used to satisfy indebtedness of US Co. or US Sub.
- q. US Sub will not be a “personal service corporation” within the meaning of Section 269A.
- r. The US Sub Contribution will be undertaken to achieve the significant non-tax business purposes described herein.
- s. No stock or securities will be issued for services rendered, or to be rendered, to or for the benefit of US Sub in connection with the US Sub Contribution.
- t. US Co. will not perform any services to or for the benefit of US Sub in connection with the US Sub Contribution.
- u. The parties to the US Sub Contribution will comply with any and all reporting requirements under Sections 351, 6038, 6038B and 6046 with respect to the US Sub Contribution.

CFC Contribution

The following representations are made with respect to the CFC Contribution:

- a. The proceeds received by CFC in collection of income items, such as accounts receivable at the time of the CFC Contribution, will be included in the ordinary taxable income of CFC 2.
- b. The CFC Contribution will not be the result of the solicitation by a promoter, broker, or investment house.
- c. CFC 1 will transfer all of the stock of CFC (a disregarded entity for U.S. federal income tax purposes) to CFC 2 and CFC 1 will not retain any rights or interests in the CFC stock (or the underlying CFC assets) other than through its ownership of CFC 2.

- d. The fair market value of the CFC 2 stock (deemed and actual) received in exchange for the CFC stock will be approximately equal to the fair market of the CFC stock transferred.
- e. For the 12-month period ending with the CFC Contribution, CFC 1 will have been the sole shareholder of CFC 2, and no CFC 2 shares will have been sold, issued, redeemed or disposed of within the 12 months prior to the CFC Contribution. Following the CFC Contribution, CFC 2 will remain in existence and CFC 1 will remain the sole shareholder of CFC 2.
- f. As of the effective date of the CFC Contribution, the adjusted basis and aggregate fair market value of the CFC assets to be transferred by CFC 1 to CFC 2 will exceed the sum of the liabilities to be assumed by CFC 2 plus any liabilities to which CFC's assets are subject.
- g. CFC's liabilities were incurred in the ordinary course of business and are associated with its assets.
- h. Except for trade payables owing from CFC to CFC 2 that arose in the ordinary course of business, there will be no indebtedness between CFC 1, CFC or CFC 2 at the time of the CFC Contribution, and no indebtedness will be created as a result of the CFC Contribution.
- i. The CFC Contribution will occur pursuant to a plan of contribution adopted in step 1 of the proposed transaction.
- j. All exchanges will occur on approximately the same date.
- k. There is no plan or intention on the part of CFC 2 to redeem or otherwise reacquire any stock or indebtedness to be issued in the CFC Contribution.
- l. Taking into account any issuance of additional shares of CFC 2 stock, and any sale, exchange, transfer by gift, or other disposition of any of existing shares of CFC 2 stock, CFC 1 will be in "control" of CFC 2 within the meaning of Section 368(c).
- m. CFC 1 will receive stock (deemed and actual), securities or other property approximately equal to the fair market value of the property transferred to CFC 2.
- n. Following the CFC Contribution, CFC 2 will remain in existence and CFC 2 or a wholly owned subsidiary of CFC 2 (or entities directly or indirectly wholly owned by them and disregarded under Section 7701 and Treas. Reg.

§§301.7701-1 through 301.7701-5T, including CFC) will retain and use the property transferred in the CFC Contribution in a trade or business.

- o. CFC 2 will have no plan or intention to sell, exchange or otherwise dispose of any stock of CFC or for CFC to issue any equity or dispose of any of its assets other than (i) dispositions made in the ordinary course of business, and (ii) dispositions made to entities wholly owned by CFC 2 and disregarded under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T (or indirectly, wholly owned by CFC 2 through wholly owned entities all of which are treated as disregarded entities under Section 7701 and Treas. Reg. §§301.7701-1, et seq.).
- p. CFC 1 and CFC 2 will each pay its own expenses, if any, incurred in connection with the CFC Contribution.
- q. CFC 2 will not be an investment company within the meaning of Section 351(e)(1) and Treas. Reg. §1.351-1(c)(1)(ii).
- r. CFC 1 is not under the jurisdiction of a court in a title 11 or similar case (within the meaning of Section 368(a)(3)(A)) and the stock (deemed and actual) or securities received in the exchange will not be used to satisfy the indebtedness of CFC 1 or CFC 2.
- s. CFC 2 will not be a “personal service corporation” within the meaning of Section 269A.
- t. There is no plan or intention for CFC to cease being an entity disregarded under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T.
- u. Neither CFC 1 nor CFC will perform any services in connection with the CFC Contribution.
- v. CFC 1 will not contribute to CFC 2 the stock of any corporation other than CFC in connection with the CFC Contribution, and CFC will not own the stock of any corporation.
- w. The CFC Contribution will be undertaken to achieve the significant non-tax business purposes described herein.
- x. The parties to the CFC Contribution will comply with any and all reporting requirements under Sections 351, 6038, 6038B and 6046 with respect to the CFC Contribution.

Deemed Recapitalization

The following representations are made with respect to the Deemed Recapitalization described in Step 7 of the proposed transaction.

- a. US Sub will not have acquired any stock of CFC 1 through a distribution from CFC 1.
- b. The only CFC 1 stock that will have been acquired by US Sub within the thirty-six month period ending with the proposed transaction will have been pursuant to the proposed transaction.
- c. All acquisitions before those described in the proposed transaction were unrelated to the proposed transaction.
- d. US Sub will not have a transferred or substituted U.S. adjusted tax basis in any of the stock of CFC 1 other than with respect to stock received in the US Sub Contribution.
- e. The fair market value of the CFC 1 stock deemed to be received by US Sub in the Deemed Recapitalization will be approximately equal the fair market value of the CFC 1 stock deemed to be surrendered, and CFC 1 will not provide any other form of consideration.
- f. US Sub will exchange its CFC 1 stock (deemed and actual) in the Deemed Recapitalization solely for CFC 1 stock, and no other property or money will be transferred or received in the Deemed Recapitalization.
- g. Except as provided in the proposed transaction, the Deemed Recapitalization will not affect the conversion rights or other privileges of any stock or stock rights of CFC 1 shares (whether or not involved in the Deemed Recapitalization).
- h. US Sub does not have any rights to put or otherwise redeem its shares of CFC 1 stock.
- i. CFC 1 will not have made any dividends with respect to its stock within the five years preceding the Deemed Recapitalization, except for cash dividends in the amounts of \$A and \$B distributed to US Sub, its sole shareholder, on Date F and Date G, respectively, and except for a cash dividend or dividends of up to \$C billion that might be made to US Sub before Date H, to be in turn transferred by dividend or loan to US Co. and used by US Co. in its unrelated acquisition of an unrelated target company, and there will be no dividends in arrears with respect to the CFC 1 stock.

- j. CFC 1 does not have any outstanding stock options, warrants, convertible securities, or any other right that is convertible into stock or securities of CFC 1.
- k. CFC 1 will not have any plan or intention to redeem or otherwise acquire any of the shares to be issued in the Deemed Recapitalization, nor will the CFC 1 stock be redeemable by its terms or other agreement.
- l. The Deemed Recapitalization will be effected in a manner that complies with all applicable legal and regulatory requirements.
- m. The Deemed Recapitalization will not be part of a plan to increase periodically, a stockholder's proportionate interest in the assets or earnings and profits of CFC 1.
- n. The Deemed Recapitalization will occur pursuant to a plan of reorganization adopted in step 1 of the proposed transaction.
- o. The aggregate fair market value of the CFC 1 assets will exceed the sum of its liabilities, and the fair market value of the CFC 1 stock will be positive.
- p. The Deemed Recapitalization will achieve the significant non-tax business purposes described herein.
- q. The parties to the Deemed Recapitalization will comply with any and all reporting requirements under Sections 367, 368, 6038, 6038B and 6046 with respect to the Deemed Recapitalization.

CFC Sale

The following representations are made with respect to the sale of CFC stock.

- a. CFC 2 was and will be duly formed and a valid corporation under all applicable laws and regulations in Country B, and it is and will be treated as a corporation for U.S. federal tax purposes under Section 7701 and Treas. Reg. §§301.7701-1 through 301.7701-5T.
- b. FDE 2 was and will be duly formed and a valid Country E holding company under all applicable laws and regulations, it is and will be treated for U.S. federal tax purposes as a disregarded entity under Section 7701 and Treas. Reg. §§301-7701-1 through 301.7701-5T, and as a branch of CFC 2 because it is indirectly, wholly owned by CFC 2 through wholly owned entities all of which are treated as disregarded entities under Section 7701

and Treas. Reg. §§301.7701-11 through 301.7701-5T.

Rulings

CFC Reorganization

Based solely on the information submitted and the representations set forth above, we rule as follows:

1. The Recapitalization and CFC Conversion will be disregarded for U.S. federal income tax purposes as a transitory step in the proposed transaction.
2. The CFC Reorganization will be treated for U.S. federal income tax purposes as if CFC 1 acquired substantially all of the assets of CFC in exchange for CFC 1 Nominal Stock and in constructive exchange for deemed CFC 1 shares ("CFC 1 Deemed Stock"). CFC will be treated as if it distributed the CFC 1 Nominal Stock and CFC 1 Deemed Stock to US Co. in complete dissolution of CFC pursuant to an overall plan of reorganization. The acquisition by CFC 1 of substantially all of the assets of CFC solely in exchange for its stock will qualify as a reorganization within the meaning of Section 368(a)(1)(D).
3. CFC 1 and CFC will each be treated as a party to the reorganization. Section 368(b).
4. No gain or loss will be recognized by CFC 1 upon the acquisition of substantially all of the assets of CFC solely in exchange for CFC 1 stock (deemed and actual). Section 1032.
5. The aggregate basis of the CFC assets held by CFC 1 immediately after the CFC Reorganization will be the same as CFC's basis held in the assets immediately prior to the CFC Reorganization. Section 362(b).
6. The holding period of the CFC assets acquired by CFC 1 will include the period of time CFC held such assets. Section 1223(2).
7. CFC 1 will succeed to and take into account, as of the close of the day of the transfer, the items described in Section 381(c) of CFC. Section 381(a) and Treas. Reg. §1.381(a)-1.
8. No gain or loss will be recognized by CFC upon the transfer of substantially all of its assets to CFC 1 solely in exchange for CFC 1 stock (deemed and actual). Section 361(a) and Section 357.

9. No gain or loss will be recognized by CFC upon the distribution of the CFC 1 stock received to US Co. Section 361(c).
10. No gain or loss will be recognized by US Co. on the transfer of its CFC stock in exchange for the actual and constructive receipt of shares of CFC 1 stock. Section 354.
11. The aggregate basis of the CFC 1 stock (deemed and actual) held by US Co. immediately after the CFC Reorganization will be the same as its basis in the CFC stock immediately prior to the CFC Reorganization. Section 358.
12. The holding period of the CFC 1 stock received by US Co. will include the period of time US Co. held its CFC stock prior to the CFC Reorganization provided the CFC stock was held as a capital asset on the date of the CFC Reorganization. Section 1223(1).
13. The exchange by US Co. of the shares of CFC for shares of CFC 1 stock (deemed and actual), will be an exchange to which Treas. Reg. sections 1.367(b)-1(c) and -4(a) apply.

US Sub Contribution

1. For U.S. federal income tax purposes, immediately following the CFC Reorganization, US Co. will be treated as contributing the CFC 1 stock (deemed and actual) received in the CFC Reorganization to US Sub, and US Sub will be treated as if it issued additional shares of its stock in constructive exchange for CFC 1 stock (deemed and actual).
2. No gain or loss will be recognized by US Co. upon the transfer of CFC 1 stock (deemed and actual) to US Sub. Sections 351 and 357.
3. The aggregate adjusted tax basis of the US Sub stock held by US Co. immediately after the US Sub Contribution will be increased by the aggregate adjusted tax basis of the CFC 1 stock (deemed and actual) held by US Co. immediately prior to the US Sub Contribution. Section 358.
4. The holding period of the US Sub stock held by US Co. should include the period of time US Co. held the CFC 1 stock (deemed and actual) provided such CFC 1 stock was held as a capital asset by US Co. on the date of the US Sub Contribution. Section 1223(1).
5. No gain or loss will be recognized by US Sub upon the deemed issuance of its shares. Section 1032.

6. US Sub's aggregate basis in the CFC 1 stock (deemed and actual) immediately after the US Sub Contribution will be the sum of its basis in the CFC 1 stock (actual) immediately before the US Sub Contribution plus US Co.'s basis in the CFC 1 stock (deemed and actual) immediately before the US Sub Contribution. Section 362(b).
7. The holding period of the CFC 1 stock acquired by US Sub will include the period of time US Co. held such stock. Section 1223(2).

CFC Contribution

1. The CFC Contribution will not prevent the CFC Reorganization from otherwise qualifying as a reorganization under Section 368(a)(1)(D). Section 368(a)(2)(C) and Rev. Rul. 2002-85, 2002-2 C.B. 986.
2. For U.S. federal income tax purposes, CFC 1 will be treated as transferring all of the assets of CFC to CFC 2 solely in exchange for CFC 2 stock.
3. No gain or loss will be recognized by CFC 1 upon the transfer of the CFC assets to CFC 2. Sections 351 and 357.
4. The aggregate adjusted tax basis of the CFC 2 stock held by CFC 1 immediately after the CFC Contribution will be increased by the excess of CFC 1's aggregate basis in the CFC assets over the sum of CFC liabilities assumed in the CFC Contribution. Section 358.
5. The holding period of the CFC 2 stock received by CFC 1 in the CFC Contribution will include the period of time CFC 1 held the CFC assets transferred in the CFC Contribution, provided such assets were held as capital assets on the date of the CFC Contribution. Section 1223(1).
6. No gain or loss will be recognized by CFC 2 upon the issuance of its stock (deemed and actual) in exchange for the assets of CFC. Section 1032.
7. The aggregate basis of the CFC assets held by CFC 2 immediately after the CFC Contribution will be the same as CFC 1's basis held in the CFC assets immediately prior to the CFC Contribution. Section 362(b).
8. The holding period of the CFC assets acquired by CFC 2 will include the period of time CFC 1 held such assets. Section 1223(2).
9. CFC 2 will succeed to and take into account, as of the close of the day of the transfer, the items described in Section 381(c) of CFC. Section 381(a) and Treas. Reg. §1.381(a)-1.

Deemed Recapitalization

1. For U.S. federal income tax purposes, immediately following the US Sub Contribution, US Sub will be treated as though it transferred all of its CFC 1 shares (deemed and actual) to CFC 1 and CFC 1 will be treated as if it issued to US Sub an amount of CFC 1 shares equal to the amount of CFC 1 stock actually held by US Sub immediately after the Deemed Recapitalization. The deemed acquisition by CFC 1 of all of its outstanding stock in constructive exchange for CFC 1 stock will be treated as a reorganization within the meaning of Section 368(a)(1)(E).
2. No gain or loss will be recognized by US Sub on the transfer of its CFC 1 stock (deemed and actual) to CFC 1 in constructive exchange solely for shares of CFC 1 stock. Section 354.
3. The aggregate basis of the CFC 1 stock held by US Sub immediately after the Deemed Recapitalization will be the same as the aggregate basis held by US Sub in the CFC 1 stock (deemed and actual) immediately prior to the Deemed Recapitalization. Section 358.
4. The holding period of the CFC 1 stock constructively received by US Sub will include the period of time US Sub held the CFC 1 stock (deemed and actual) provided such stock was held as a capital asset on the date of the Deemed Recapitalization. Section 1223(1).
5. No gain or loss will be recognized by CFC 1 upon the acquisition of its stock (deemed and actual) in constructive exchange solely for CFC 1 stock. Sections 357, 361 and 1032.
6. The aggregate basis of the assets held by CFC 1 will not be changed by the Deemed Recapitalization. Section 362(b).
7. The holding period of the CFC 1 assets will not be changed by the Deemed Recapitalization. Section 1223(2).
8. The items of CFC 1 described in Section 381(c) will not be changed by the Deemed Recapitalization. Section 381(a), Treas. Reg. §1.381(a)-1 and Rev. Proc. 2003-48, 2003-1 C.B. 863.

CFC Sale

1. The sale by CFC 2 of the CFC shares to FDE 2 in exchange for cash or a note will be disregarded for U.S. federal tax purposes.

Caveats

No opinion is expressed about the tax treatment of the proposed transaction under other provisions of the Code and regulations or the tax treatment of any conditions existing at the time of, or effects resulting from, the proposed transaction that are not specifically covered by the above rulings. Specifically, no opinion is expressed regarding the following:

1. The adjustments to earnings and profits or deficits in earnings and profits, if any, in any of the transactions to which sections 367(a) or (b) apply.
2. To the extent not otherwise specifically ruled upon above, any other consequences under section 367 on any internal restructuring transaction in this ruling letter.
3. The application of section 1503(d) to any dual resident corporation that is involved in a putative triggering event in connection with any of the transactions described above.

Procedural Statements

This ruling letter is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this ruling letter must be attached to the federal income tax return of each taxpayer involved for the taxable year in which the transaction covered by this ruling letter is consummated. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the ruling letter.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Lisa A. Fuller
Lisa A. Fuller
Senior Counsel, Branch 1
Office of Associate Chief Counsel
(Corporate)

cc: